



## CITY OF SAN JOSÉ, CALIFORNIA

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### SAN JOSÉ ELECTIONS COMMISSION

Thomas Mertens, Chair  
Jang Badhesha  
Michael Smith  
Tony Ventura

### SAN JOSÉ ELECTIONS COMMISSION MEETING MINUTES August 8, 2007

#### I CALL TO ORDER

The Members of the San José Elections Commission convened at 5:30 p.m. in Room W-242 of City Hall, 200 E. Santa Clara Street, San José, CA 95113.

PRESENT: COMMISSIONERS Badhesha, de Funiak, Smith, Ventura and Mertens

ABSENT: COMMISSIONERS None

STAFF PRESENT: Chief Deputy City Attorney Norm Sato  
Senior Deputy City Attorney Lisa Herrick  
City Clerk Lee Price  
Deputy City Clerk Michelle Estabillo

#### II DISCUSSION ITEMS

- A. Subcommittee report regarding City Council Referrals to the Elections Commission and Preliminary Discussion regarding the development of a work program to address the referrals (Mertens/Smith/Attorney)

Documents Filed: 1) Chart created by Commissioner Smith regarding referrals made to the Elections Commission; and 2) Election Commission Structure flowchart

Chair Mertens led discussion about the 10% rule for disclosure of time spent by employees working on a campaign during work hours (FPPC Rule 1843). Chair Mertens suggested that the Elections Commission consider recommending that the City adopt a rule that would require disclosing any time spent by an employee working on a campaign during his/her compensated work day be disclosed. The Commission agreed that further research is needed before making a recommendation.

Motion: Upon motion by Commissioner Smith, seconded by Commissioner Ventura, and unanimously accepted, the Commission directed the City Attorney's Office to work with the Commission to research and formulate a recommendation to City Council to change current law pertaining to disclosure of any compensated time while working on a campaign.

Chair Mertens proposed that the black out period for campaign contributions be extended to allow absentee voters time to review campaign disclosures. Senior Deputy City Attorney Lisa Herrick suggested that the Commission come back on this topic at a future meeting due to a lawsuit filed by a taxpayer regarding the Lobbyist Ordinance and the current black out period. In addition, she reported that the City Attorney's Office is doing research an analysis on the challenge to the City's black-out period. The Commission agreed to wait on the outcome of the lawsuit, but formed a subcommittee (Smith/de Funiak) to draft a recommendation of the law change.

Motion: Upon motion by Commissioner de Funiak, seconded by Commissioner Badhesha, and unanimously accepted, the Commission appointed Vice Chair de Funiak and Commissioner Smith to form a subcommittee to draft a recommendation changing the black out period for campaign contributions.

Chair Mertens led discussion on the Elections Commission structure and provided a chart on proposed staffing and budgetary needs. Commissioner de Funiak suggested that the Commission move forward to the City Council the concept of the Elections Commission structure to obtain direction. City Clerk Lee Price recommended that the Commission go to the Rules and Open Government Committee with a status update on work currently in progress as a mechanism for advancing the concept. A subcommittee was formed (de Funiak/Badhesha) to research the structure of Elections Commission at other jurisdictions.

- B. Update and presentation on Lobbyist Ordinance amendments and its impacts (Clerk/Attorney)

Senior Deputy City Attorney Lisa Herrick summarized the Lobbyist Ordinance amendments that went into effect August 1, 2007. She stated that the City Attorney will go back to Council in the fall with a few questions on the amendments and will provide an update to the Commission.

- C. Elections Commission Liability and Immunity (Attorney)

Senior Deputy City Attorney Lisa Herrick stated that if the Elections Commission was named as a defendant on a lawsuit the City would

indemnify and defend them unless the Commission engaged in activity outside of their scope.

D. Update on all Requests for Qualifications issued to date (Clerk/Attorney)

City Clerk Lee Price provided an update on the Request for Qualifications for the Elections Commission Investigator, Evaluator (Attorney), and Audit Consultant. Senior Deputy City Attorney Lisa Herrick summarized the groups she provided outreach to regarding the RFQs and Commissioner Ventura suggested using the Martindale-Hubble database to outreach to parties who might be interested in the Evaluator – Attorney RFQ. Commissioner Badhesha also stated he would begin outreach with University of California – Berkeley for the Elections Auditor RFQ.

III PUBLIC COMMENT

Steven Chessin, President of Californians for Electoral Reform, spoke in favor of having instant run-off voting in San José and gave an overview of services he can provide to the Commission.

Jim Stauffer, Chapter Coordinator for Californians for Electoral Reform, also spoke in favor of instant run-off voting and offered support services.

IV ADJOURNMENT

The meeting adjourned at 7:37 p.m.

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THOMAS M. (TOM) MERTENS, CHAIR

ATTEST:

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LEE PRICE, MMC  
CITY CLERK and SECRETARY TO THE COMMISSION